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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/643,690 | 08/19/2003 | Yoshiyuki Kurokawa | 0553-0323.01 | 5081 |

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EXAMINER

FENTY, JESSE A

ART UNIT PAPER NUMBER

2815

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/12/06 has been entered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 4 and 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3 of Kurokawa et al. (U.S. Patent No. 6,621,130 B2). Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent claims do not recite an insulating substrate. However, this feature is well known in the art and would have been obvious to one of ordinary skill at the time of the invention to use for the purpose, of controlling surface effects of the device, thus enhancing operability.

Allowable Subject Matter

Claims 7, 10-13, 16-19, 21, 24-27, 43, 44 and 46-53 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

In re claims 7 and 51, reciting at least a channel region comprising a first and second region, wherein a thickness of the first insulating film on the second region is thinner than a thickness of the first insulating film on the first region, and wherein a concentration of impurity elements in the first region is larger than a concentration of impurity elements in the second region, is neither anticipated nor obvious over the prior art of record.

In re claims 13, 21, 43 and 47, the semiconductor memory device comprising at least first and second floating gates and control gates connected together, the channel region comprising a first and second channel forming region, wherein the impurity

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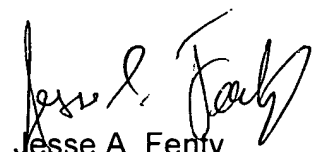
concentration or threshold voltage of the first region being different from that of the second region is neither anticipated nor obvious over the prior art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesse A. Fenty whose telephone number is 571-272-1729. The examiner can normally be reached on M-F 5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Parker can be reached on 571-272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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